IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 22ND SEPTEMBER 2006 / 31ST BHADRA 1928

ST.Rev..No. 547 of 2004()

TA.259/2000 of S.T.A.T.ADDL.BENCH,TVM. DT.27.4.2001.
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REVISION PETITIONER/RESPONDENT/REVENUE

STATE OF KERALA REPRESENTED BY
THE DEPUTY COMMISSIONR (LAW), COMMERCIAL TAXES,
ERNAKULAM.

BY GOVERNMENT PLEADER SRI.V.V.ASOKAN

RESPONDENTS: APPELLANT/ASSESSEE

M/S.M.ABDUL SAMAD & BROTHERS,
HIDES & SKIN DEALER, THIRUVANANTHAPURAM.

BY ADV. SRI.K.M.FIROZ

THIS SALES TAX REVISION HAVING BEEN FINALLY HEARD ON 22/09/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR & K.M.JOSEPH, JJ.

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S.T.R.V. No.547 of 2004

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Dated this the 22nd day of September, 2006.

JUDGMENT

Ramachandran Nair, J.

The question raised is whether the Tribunal was right in allowing carriage inward expenses claimed by the respondent treating it as purchasing agent on commission basis. The Special Government Pleader contended that the Tribunal has introduced a new fact which does not arise from the assessment order. However, counsel for the respondent submitted that similar issue arises for earlier year also. The Assessing Officer has stated that carriage inward accounted represents cooli and loading charges and since it is paid to the seller, it forms part of purchase turnover. If the facts stated by the Assessing Officer are correct, then assessment of carriage inward is justified as the same constitutes purchase price and full amount of purchase price is assessable under Rule 8(2) of the KGST Rules. However, if respondent is engaged as purchase agent and if any payment is made towards commission after purchase, then of course such payment being post purchase expenditure cannot be treated as purchase turnover, no matter it forms part of cost of goods to the principal. Since facts are not clear, we feel one more opportunity can be given to the respondent to produce agreements appointing them as purchase agents and accounts before the officer for him to consider the same along with purchase bills produced. The revision case is therefore disposed of

reversing the order of the Tribunal and remanding the matter to the officer for fresh consideration of this issue as stated above.

C.N.RAMACHANDRAN NAIR
Judge

K.M.JOSEPH
Judge

pms

C.N.RAMACHANDRAN NAIR &
K.M.JOSEH, JJ.

T.R.C. No. of 200

JUDGMENT

Dated